



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Alaska Regional Office
3601 C Street, Suite 1200
Anchorage, AK 99503

E.

RECEIVED

SEP 19 2018

OST - FIELD OPERATIONS
ALASKA REGION

SEP 14 2018

Russell L. Winner
Winner & Associates
900 West Fifth Avenue, Ste 700
Anchorage, Alaska 99501

COPY

Dear Mr. Winner,

Thank you for your response letter, dated September 5, 2018, in reply to Ms. Lesley DeWilde's, Superintendent, Bureau of Indian Affairs (BIA), Fairbanks Agency letter, dated August 30, 2018. The BIA does not agree with your position that Mr. Givens has a right to access private information based on receiving any payments from the Oenga Heirs using Office of Special Trustee (OST) Form OST 01-004.

In your letter, you state that Mr. Givens is no longer practicing law but there have been several recent actions by Mr. Givens that could lead someone to believe he is representing the Oenga Heirs.

- During the summer, Mr. Givens requested a site visit directly to ConocoPhillips. Mr. Givens does not own nor is he a party to the lease agreement between the Oenga Heirs and any lessors. As such, why would Mr. Givens request a site visit with ConocoPhillips and not with the Oenga Heirs. Mr. Givens does not have any right to access any private property without permission from the Oenga Heirs. Otherwise, his site visit could be determined to be trespass on a restricted Alaska Native allotment.
- Mr. Givens sent a letter to Ms. DeWilde and Ms. Glenda Miller, dated July 27, 2018, writing on "behalf" of Mr. Ray David Aguvluk and Ms. Trinity Delia.¹ In this letter, Mr. Givens requested that BIA and OST to correct Mr. Aguvluk's name and Ms. Trinity Delia's address. While one can argue that this is not the "practice of law", what authority allows Mr. Givens to be involved in the private business of Mr. Aguvluk and Ms. Delia. Has Mr. Givens expressly advised Mr. Aguvluk and Ms. Delia that he is not a practicing attorney and does not represent them in any matter?

¹ Mr. Givens used the word "request" in his letter but it begs the question as to why Mr. Aguvluk would ask Mr. Givens to send a letter when he has direct access to BIA and OST.

- Mr. Givens sent two letters, both dated July 30, 2018, addressed to Ms. DeWilde and Ms. Miller appearing to direct the BIA and OST to distribute specific payment amounts to Mr. Givens. BIA and OST must make it clear that they do not take direction from Mr. Givens, as he does not represent anyone because he is not an active member of a state bar association, but will only distribute Individual Indian Money (IIM) account funds, based on the Oenga Heirs filing an OST-004 form with OST and include the amount to transfer to Mr. Givens.
- While Mr. Givens has changed the name on his letterhead to Raymond C. Givens instead of Givens Law Firm, he continues to use an email raygivens@givenslaw.com. This information could lead someone to believe Mr. Givens is practicing law unless Mr. Givens is candid with all persons that he is no longer a member of a state bar association and he does not represent the Oenga Heirs in any capacity.

Mr. Givens has no role managing the annual lease payments to the Heirs of Leroy Oenga or any other aspects of the lease entered into between the heirs and BP Exploration Alaska, Inc. or any other lessor. While Mr. Givens may believe he has a right to access private information, he does not because the lease is between two private parties that do not include him. While you argue that Mr. Givens' payment based on the OST 01-004 Form grants him access to private information between two parties and that BIA and OST can provide this to him, the Federal Government must comply with the Privacy Act (5 U.S.C. § 552a). The Privacy Act permits an individual to have access to government records containing personal information on that individual and allows the individual to control the transfer of that information. A breach of privacy is knowingly and without proper authorization, divulging information in a government system of records. The only parties who can authorize the BIA or OST to release these records from the lessors are the Oenga Heirs.

If you or Mr. Givens believe this form allows Mr. Givens access over the Privacy Act, please provide the language that allows the BIA or OST to release this private information. If Mr. Givens seeks this private information, he should request it from the Heirs or the lessors as a private citizen and not as a legal representative of the Heirs.² As required by the Privacy Act, the BIA nor OST are obligated or required to provide any information to Mr. Givens without the express approval from the Oenga Heirs.

² Was Ms. Farhana Stevens, BP Exploration (Alaska) Inc., aware that Mr. Givens no longer represented the Oenga Heirs? If so, the ultimate question is if she would have provided private information to Mr. Givens without the express consent of the Oenga Heirs.

In conclusion, BIA has evidence to believe Mr. Givens is possibly representing himself on behalf of the Oenga Heirs to gain access to information between a lessee and lessor without proper authorization from the lessee. An OST form directing payment to Mr. Givens does not authorize his access to government records under the Privacy Act. As such, if Mr. Givens seeks private information between the Oenga Heirs and the lessor, he should see authorization from the heirs.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eugene R. Peltola Jr.", with a stylized flourish at the end.

Eugene R. Peltola Jr.
Regional Director

cc: Inupiat Community of Arctic Slope- Realty Dept
BP Exploration (Alaska) Inc.
Office of Special Trustee
Heir's of Oenga:
Joseph Delia
Wallace Oenga
Leroy Oenga Jr.,
Vera Nungasak
Ray D. Avguvluk
Tony Delia
Trinity Delia
Jennie Miller

WINNER & ASSOCIATES

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

900 WEST FIFTH AVENUE
SUITE 700

ANCHORAGE, ALASKA 99501-2044

RUSSELL L. WINNER
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September 5, 2018

Lesley R. DeWilde, Superintendent
Bureau of Indian Affairs, Fairbanks Agency
101 12th Avenue, Room 166
Fairbanks, Alaska 99701-6270

RECEIVED

SEP 11 2018

Re: Heirs of Andrew Oenga
Native Allotment F14632, Parcel B
BIA Lease No. 9851472

Bureau of Indian Affairs
Fairbanks Agency

COPY

Dear Ms. DeWilde:

I write on behalf of Ray Givens, in response to your letter to him, dated August 30, 2018. There, you write that, in your view, Mr. Givens does not have the right to access private information between the heirs of Andrew Oenga ("Oengas heirs"), as lessors, and BP Exploration Alaska, Inc. ("BP"), as lessee, regarding the above-referenced Native allotment, unless he is an active member of a state bar association and is currently representing the Oenga heirs in this matter.

You misapprehend Mr. Givens' current role regarding the Oenga heirs. He no longer represents them as their attorney. Instead, he is receiving payments from them out of the rents they are receiving from BP, which are paid to the Office of the Special Trustee ("OST"), under a written contingent-fee agreement with the Oenga heirs. The payments are based on his prior successful representation of them in protracted litigation that secured a substantial increase in those rents.

The contingent fee agreement, signed by each of the Oenga heirs, provides as follows:

Clients agree to pay attorney for professional services . . . 25% of annual rent on Alaska Native Allotment F-14632 paid for both the 2012-2013 inclusive period and for the extended term period of 2014-2038 inclusive. Clients shall direct that these payments for professional services shall be paid directly to Attorney by Lessee BP Exploration (Alaska), Inc. and/or the United States or any subdivision thereof from the funds due Clients at the same time the remaining funds due are paid to Clients.

Lesley R. DeWilde, Superintendent
Re: Heirs of Andrew Oenga
Native Allotment F14632, Parcel B
BIA Lease No. 9851472
September 5, 2018
Page 2

As required by that fee agreement, each of the Oenga heirs has filed with OST a Form OST 01-004 directing OST to make yearly direct payments to Mr. Givens from rents received from BP.

Attached are copies of the following documents, which confirm the above:

- Decision letter of Weldon B. Loudermilk, Regional Director, Bureau of Indian Affairs, Alaska Region, received by me on August 26, 2015. There, Mr. Loudermilk wrote:

The annual lease payments are made to and are distributed by OST to each eligible allotment owners' respective IIM accounts. As such, it is the responsibility and legal control of the Oenga heirs to pay the annual attorney fees to Mr. Givens as signed by each person in the fee contracts/amendments. (Page 3)

* * * *

If the Oenga heirs properly filed a Form OST 01-004 with OST that authorizes third party payments to Mr. Givens, OST will process these requests without requiring a newly signed form each year. (Page 4-5)

- Letter from me to Lisa DeCora, Attorney-Adviser, Office of the Solicitor, Alaska Region, U.S Department of the Interior, dated August 9, 2017, with three exhibits.
- Email from Lisa Decora to me in response, dated September 20, 2017.

Mr. Givens is 72 years old, and he is no longer actively practicing law. He is currently in Senior Status and in good standing with the Idaho Bar Association, and he is currently in Inactive Status and in good standing with the Washington State Bar Association. However, Mr. Givens need not be an active member of a bar association, and he need not currently represent the Oenga heirs their attorney, to receive payments for past legal services rendered to them. Based on Mr. Givens' right to receive those payments directly from OST under the OST 01-004 forms signed by the Oenga heirs, he has the right to receive information not only from BP but also from the BIA and OST regarding the yearly rent paid by BP and received by OST for the Oenga heirs.

Lesley R. DeWilde, Superintendent
Re: Heirs of Andrew Oenga
Native Allotment F14632, Parcel B
BIA Lease No. 9851472

September 5, 2018
Page 3

Please confirm your agreement with the above by September 14, 2018.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'R. Winner', with a horizontal line extending to the right.

Russell L. Winner

Enclosures

cc with encls.:

Ray Givens
Lisa DeCora
Oenga heirs



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
FAIRBANKS AGENCY
101 12th Ave, Room 166
Fairbanks, Alaska 99701-6270
1800-822-3596

August 30, 2018

IN REPLY TO:
Oenga Lease

COPY

Raymond C. Givens
302 3rd Avenue South
Kirkland, WA 98033

RE: Heirs of Andrew Oenga Native Allotment F14632 Parcel B,
BIA Lease No. 985 1472

Dear Mr. Givens:

On July 27, 2017, I requested (BIA) a letter of representation from you regarding legal representation of the Heirs of Andrew Oenga, Lease No. 985 1472. Mr. Russell Winner replied on August 9, 2017, requesting a reason why I was requesting "additional signatures at this time" but did not provide a copy of any current documentation to show you legally represent any of the Heirs of Andrew Oenga.

Currently the Washington State Bar Association (WSBA) website shows your status as "Inactive," which, under WSBA Bylaws states: Inactive members must not practice law in Washington, nor engage in employment or duties that constitute the practice of law. See Article III Section B.2. As such, you may be violating the Rules of Professional Conduct (RPC) if you are implying to anyone, including the lessee or the Oenga heirs that you are acting in the capacity of an attorney on behalf of the Oenga heirs. See RPC 5.5 (UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW) & 5.8 (MISCONDUCT INVOLVING LAWYERS AND LLLTS NOT ACTIVELY LICENSED TO PRACTICE LAW). If you are licensed to practice law in any state, please provide an Internet link or copy of a valid bar admissions card to the BIA.

If not, you have no right to access private information between a lessee and a lessor. Additionally, the Oenga Heirs should provide a letter or statement to the BIA that states whether or not you represent them (assuming you are currently a practicing attorney in any state) regarding future annual fee payments under the current lease.

If you cannot provide any of the above requested information, you are violating the privacy of the Oenga Heirs and must stop your inquiries into their personal business transactions.

Thank you

Sincerely,

A handwritten signature in black ink that reads "Lesley R. DeWilde". The signature is written in a cursive, flowing style.

Lesley R. DeWilde
Superintendent

cc:

Office of the Regional Solicitor, 4230 University Dr., Suite 300, Anchorage, AK 99508
Russ Winner, Winner & Associates, 900 West Fifth Ave., Suite 700, Anchorage, AK 99501
Inupiat Community of Arctic Slope- Realty Dept., PO Box 934, Barrow, AK 99723
BP Exploration (Alaska) Inc. (Attn: Farhana Stevens), 200 Westlake Park Blvd., (30 A WL4),
Houston, TX 77079
Office of Special Trustee, 3601 C Street, Suite 216, Anchorage, AK 99503

Heirs of Andrew Oenga:

Joe (Joseph) Delia, 2231 N Gunflint Trail, Wasilla, AK 996231-9215
Wallace Oenga, PO Box 91058, Atqasuk, AK 99791-0058
Leroy Oenga Jr., PO Box 201, Barrow, AK 99723
Vera Nungasak, PO Box 91075, Atqasuk, AK 99791
Ray D. Avguvluk, PO Box 91075, Atqasuk, AK 99791
Tony Delia, 6843 O'Brien St. Apt. B, Anchorage, AK. 99507
Trinity Delia, 4344 York Ave., Fairbanks, AK 99709
Jennie Miller, 1018 Dogwood St., Apt. 202, Fairbanks, AK 99709



RAYMOND C. GIVENS

302 3rd Avenue South

Kirkland, WA 98033

Home phone 425.641.5949

Cell phone 208-699-6628

raygivens@givenslaw.com

July 30, 2018

Lesley DeWilde, Superintendent
U. S. Department of the Interior
Bureau of Indian Affairs – Fairbanks Agency
101 12th Avenue, Room 166
Fairbanks, AK 99701

Glenda Miller
U. S. Department of the Interior
Office of the Special Trustee
3601 C Street, Suite 216
Anchorage, AK 99503

Re: Native Allotment F14632 Parcel B, BIA Lease 985-1472 - Oenga
2018 Distribution of 2019 Rents and Attorney Fees

Dear Ms. DeWilde and Ms. Miller,

BP has sent their 2018 letter calculating the 2019 rent to be paid in 2018 for the lease of the above allotment. Their calculation of \$725,639.72 due appears to be in conformity with the Lease. That amount should be paid by BP to the Department of the Interior on behalf of the Heirs of Andrew Oenga in late September or early October.

The appropriate distribution of the \$725,639.72 is set out below under the current Oenga/BP Heald Point Lease, the 25% Contingent Attorney Fee Agreement, 2015 Decision of Regional Director Loudermilk, and the OST forms filed by the Oenga Heirs.

Name	Allotment %	% Allocation	Allottee Share	Attorney Fee
Joe Delia	25%	\$181,409.93	\$136,057.46	\$45,352.47
Wallace Oenga *	24%	\$174,153.53	\$130,615.15	\$43,538.38
Leroy Oenga Jr	24%	\$174,153.53	\$130,615.15	\$43,538.38
Vera Nungasak	12%	\$87,076.77	\$65,307.58	\$21,769.19
Ray Aguvluk	12%	\$87,076.77	\$65,307.58	\$21,769.19
Tony Delia	1%	\$7,256.40	\$5,442.30	\$1,814.10
Trinity Delia	1%	\$7,256.40	\$5,442.30	\$1,814.10
Jennie Miller	1%	\$7,256.40	\$5,442.30	\$1,814.10

* Wallace's actual 2018 distributions have been adjusted pursuant to separate OST forms previously signed for this year

DeWilde, Miller
July 28, 2018
Page 2

Under the Loudermilk Decision and the paperwork filed with OST by the Oenga Heirs, it is appropriate for OST to make the specific attorney fee payments itemized above, for all except Wallace, directly to this office, without further involvement of the Heirs. See Loudermilk Decision, p.6 ("For those Oenga heirs who have properly filed a Form OST 01-004 with OST that authorizes third party payment to Mr. Givens, OST will process these requests without requiring a newly signed form each year."). Wallace's distribution is addressed in a separate letter.

If you have any questions, please contact me by email or at 208-699-6628. Thank you for your consideration.

Sincerely,



Raymond C. Givens

Cc: Oenga Heirs

Encl.



RAYMOND C. GIVENS

302 3rd Avenue South
Kirkland, WA 98033
Home phone 425.641.5949
Cell phone 208-699-6628
raygivens@givenslaw.com

July 30, 2018

Lesley DeWilde, Superintendent
U. S. Department of the Interior
Bureau of Indian Affairs – Fairbanks Agency
101 12th Avenue, Room 166
Fairbanks, AK 99701

Glenda Miller
U. S. Department of the Interior
Office of the Special Trustee
3601 C Street, Suite 216
Anchorage, AK 99503

Re: Wallace Oenga 2018 Distribution
Native Allotment F14632 Parcel B, BIA Lease 985-1472

Dear Ms. DeWilde and Ms. Miller,

This year, the distribution process for Wallace Oenga will be different from the other Oenga Heirs because of new OST Forms 01-004 signed by Wallace. Under direction given in those forms, Wallace's 24% share (\$174,153.53) of the \$725,639.72 Heald Point rent paid by BP this year is to be distributed to pay all outstanding attorney fees due, plus interest, and to distribute the remainder *on a monthly basis*, with the first month's payment being double the others.

For this year, Wallace's distribution will be:

- \$87,977.58 distributed immediately upon receipt of funds from BP [September or October of 2018] to this office for attorney fees and interest due on prior work, calculated as follows:
 - \$44,439.20 in attorney fees due *last* year, but not paid, plus interest,
 - \$43,538.38 in attorney fees due *this* year (25% atty fee of Wallace's 24% of \$725,639.72).
- \$86,175.95 remaining after the above distribution, plus interest earned, distributed to Wallace as follows:
 - \$13,257.82 distributed to Wallace immediately upon receipt of funds from BP [September or October of 2018]. This is 2/13 of Wallace's share of this year's rents remaining after above distribution.
 - 1/13 of remaining funds [approximately \$6,628.91, plus interest earned] distributed to Wallace the first of each month November, 2018 thru September, 2019, inclusive.

DeWilde, Miller
July 30, 2018
Page 2

Wallace felt that this distribution formula would avoid complications by bringing him current on his obligations, and making it much easier to manage his money in the future. If you have any questions, please contact me by email or at 208-699-6628. Thank you for your consideration.

Sincerely,


Raymond C. Givens

Cc: Wallace Oenga